

# Active Unemployed Austria

More rights for the unemployed!



SOLIDARTITY + ADVICE + POLITICAL ACTION

***[www.aktive-arbeitslose.at](http://www.aktive-arbeitslose.at)***

# Active Unemployed Austria

The European neoliberale  
activation and  
force to work regime  
  
its basic concepts and  
its implementation in Austria

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## Once Upon a Time there was the right of freely chosen work

- UN Human Rights Declaration 1948, Article 23
- International Covenant on Economic, Social and Cultural Rights („CECSR“), article 6 [BGBl 590/1978]  
Parallell report with our contribution at <http://www.fian.at> → right sidebar „WSK-Forum“
- ILO Convention 122 [BGBl 1972/355], ILO 39, ILO 105
- European Social Charta [BGBl 1969/460]
- European Fundamental Rights Charta, Artikel 14  
[Official Journal of the European Union C 130]



## ILO Conenant 122 – Covenant about the employment policy „The golden Age of Fordism“

### Article 1

1. With a view to stimulating economic growth and development, **raising levels of living**, meeting manpower requirements and overcoming unemployment and underemployment, each Member shall declare and pursue, as a major goal, an **active policy** designed to **promote full, productive and freely chosen employment**.

2. The said policy shall aim at ensuring that--

(a) **there is work for all** who are available for and seeking work;

(b) such work is **as productive as possible**;

(c) there is **freedom of choice of employment** and the fullest possible opportunity for each worker to **qualify for**, and to **use his skills and endowments** in, **a job for which he is well suited**, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.

3. The said policy shall take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives, and shall be pursued by methods that are appropriate to national conditions and practices.

### Article 3

In the application of this Convention, **representatives of the persons affected by the measures** to be taken, and in particular representatives of employers and workers, **shall be consulted** concerning employment policies, with a view to **taking fully into account their experience and views** and securing their full co-operation in formulating and enlisting support for such policies.



**Now we have**

- Increasing unemployment
- Increasing precarisation of life and work
- Increasing poverty in the masses
- Increasing wealth of the Upper 1 %



## What should we do?

1. Create new jobs
2. Distribute existing employment
3. Give Livelihood without gainful employment (de - co-modification of work)
4. Increase pressure on labor force unemployed

1 – 3 too expensive and not in the sense of the capitalistic economy

4 sounds not good, so we should formulate it more positive

Heureka, its activation!



## The EU activation regime

1996 "OECD Job Strategy"

1997 Danish presidency promoted a concept of "activation" of the EU employment policy

EU Agenda 2020

Beliefs :

- Work is the best antidote to poverty
- Growth promotes employment - employment promotes growth
- Therefore, as many people gainful work must investigate and pushed into the labor market ( "activated")

Economic plan targets to increase labor market participation rates , particularly those populations that are not as strong in employment (women returners , older workers, handicapped, migrants)



## The European Employment Strategy (EES)

Open method Coordination as part of the Lisbon strategy (2000) ,  
First prototype is the "European Employment Strategy,,

- Employment guidelines - Proposed by Commission, Agreed by national Governments ,  
Adopted By the EU Council.
- Joint employment report (JER) - based on
  1. First assessment of employment situation in Europe
  2. Second implementation of the Employment Guidelines
  3. Third examination of draft National Reform Programmes by the Employment Committee.
- National Reform Programmes (NRPs ) - submitted by national Governments, Analysed by  
Commission for compliance with Europe 2020 (database - NRPs prior to 2011).
- Countryspecific recommendations - issued by Commission, based on assessment of the NRPs .

No liability for the member states, is subordinated to the European economic policy (austerity)





## From „active“ to „activation“ labor market policy – the paradigm shift

<b>„Belief“ – Explanation of unemployment</b>	work is missing and needs to be created	work is there and the opportunities need to be taken
<b>Focus the action level</b>	macro level – a task of politics and society	micro level - a task of the individual
<b>value base</b>	Solidarity and equality ("citoyen/proletarian self")	ownership and competition , differentiation ( " neo-liberal self " ) - an educational
<b>effect of target</b>	Balance supply and demand on the labor market	Behavior change in the labor market subjects ' fit 2 work "
<b>legal principle</b>	"Right to freely chosen work" " Right to social security "	" No right to laziness , Activation as a right and duty - " carrot and stick"
<b>„production logic" of employment agencies</b>	mediation of labor , authorization and grant and aid	service in co-production - " integration agreement"
<b>mediated setting</b>	I am qualified , conveys , employs	I'll take help and search / find themselves work
<b>How to Improve incentives to work?</b>	Higher wages, better working conditions ( " pull " )	More pressure through worse conditions for the unemployed ( " push")
<b>Success criterion</b>	Less unemployment through sustainable placement in permanent jobs in the " labor market "	"Labour market close " , more transitions from unemployment to work, even short-term jobs and "second labor market "
<b>common grounds</b>	Socialization , integration through paid work, Unemployed are no independent political actors No fundamental questioning of the capitalist economic and social system	



## Changes to the unemployment insurance

- Reducing the benefit period and decrease in the reference amount
- Intensification of the conditions of access to money terms ("entitlement" )
- Tightening the sanctions regime : more sanctions reasons , longer duration and greater benefit cuts
- Deterioration of the criteria for "reasonable job", degradation of the profession and salary protection, precarious forms of work ( temporary work! ) as "reasonable"
- More coercive reasonable , in particular the creation of a " second labor market ", with reduced workers rights ("workfare") which comes close to „forced labor“
- Softening of the obligation to state reasons for measures of labor market
- Reducing the rights of the unemployed (if they had any), eg no right to (re)training
- Outsourcing tasks of the employment agency to private agencies



## The sanctions regime: be careful at the job interview!

Some legal cases of the Austrian Higher Administrative Court:

- wish for a higher wage than the wage offered to the collective agreement ,
- wish for another job tenure
- Point to the long travel times and on your damaged vulnerable car (VwGH GZ 99/08/0144 )
- to name the work offered only as an interim solution (VwGH GZ 98/08/0122 )
- to wish a permanent job if a limited/temporary job is offered (VwGH GZ 2010/08/0206 )
- the express concern, not to be suitable due to lack of experience (VwGH GZ 2010/08/0253 )
- To express, without rejecting the offered "in itself,,, to look for another job (VwGH GZ 2002/08/0029)
- unasked indicate an intention to training that exposes your intention to look for a better job (VwGH GZ 2006/08/0322)
- As a vegetarian cook offered a job as a kindergarten teacher to express not to want to cook meat dishes,
- as a lawyer offered a job as a cleaner to emphasize on his own qualifications (VwGH GZ 97/08/0572)



## Restructuring of the welfare system as a whole

- Connection of the different social ,protection systems, so that there is no escape
- Connection of social assistance to the stricter regime of the employment agency
- Tightening until the abolition of early retirement
- Tightening access to disability pension , introduction of compulsory rehabilitation with subsequent declaration as "fit to work"
- Deterioration in the old-age pension , raising the retirement age and reducing benefits ( eg extension of the basis for calculation to the total working period )
- Enhanced data collection and automatic data exchange between the different social systems and other authorities
- Promotion of private and social insurance (pensions)
- Expanding the surveillance state
- Reduction of free spaces in society and exit opportunities (begars prohibition!)



## What does that mean in concrete terms for acquisition unemployed ?

- Apply for an increasing number of jobs that you do not get
- To be kept up , often parked senseless coercive measures of the employment agency in alien determined to reduce the unemployment statistics, and particularly the longterm unemployed statistics
- Pedagogisation in the courses is as infantilization experienced (group-dynamic games as a pastime)
- In the activation rates of the resume is rewritten each time according to the preferences of the coach
- Much time is served in crowded spaces (computer) without a coach to look for even jobs that you do not get connection to real labor market work
- Often low-paid and low-skilled labor in work programs in the "secondary labor market" with no temporary auxiliary jobs on nonprofit staff lessor
- Courses often colorful diced together and therefore no common learning possible
- Coaches often even only briefly educated unemployed who are poorly paid and precarious work



## Be aware of the traps in the sanctions regime

... as experienced in Austria

- "Preliminary reference setting" on pure suspicion, without that You had been informed or that You had been heard! If the agency in the end doesn't sanction You and You had troubles to pay Your bills (housing!) the work agency won't pay the additional costs or can't be held into any account!
- In fact You have the burden of proof to show that You are innocent!
- Sanctions in Austria are always 100%, last for 6 or 8 weeks and therefore threatens Your survival. The work agency is not responsible for anything! A reduced tested minimum income is possible, but You can't get it retrospective. The most people don't know about it, because nobody tells them!
- No obligation of the work agency to inform You about Your rights!
- No right to independent legal advice, if You don't have money for a lawyer, it's Yours!
- No legal aid at the administrative court but innovation ban then at the Higher Administrative Court, where You then can get a lawyer if You don't have money!



## Deeper effects of the activation paradigm for the rule of law and human rights

- Shift from basic , collective human rights to individual obligations :
- from "Every man is born equal in dignity and rights , and therefore has the right to freely chosen good work " is "Man obtains his dignity through work and work at any price is a civic duty "
- Instead of right to health and free treatment for elective maintain the "work ability " and forced rehabilitation case management
- From presumption of innocence presumption of guilt :
- Deficit orientation ( "switching barriers" = individual deficit -->victimization )
- Restriction of privacy and self-determination. Even every job application is monitored , also the required presentation to business, guidance for interviews ...
- Tendency for the replacement of defined rights and obligations through "agreements" negotiated on an very unequal power base
- Increasing the hurdles in the legal access : higher court fees, supreme courts only responsible for basic legal issues , deterioration in the legal aid



## **„Negative impact of sanctions**

- Sanctions are arbitrary
- Sanctions hit exactly the wrong
- Sanctions do not have the desired effect
- Financial loss / clan liability
- Health and social damage
- Sanctions creating a climate of fear and thus deactivate





## **The sanctions regime threatens basic human rights!**

### UN Declaration of Human Rights

- Right to protection against unemployment ( Article 23)

### International Conveneant on economic, social and cultural Rights (ICESCR):

- Right to social security, article 9  
Sanctions in peneral comments only since 2007
- Right to adequate standard of living , article 11
- Right to housing, article 11
- Right to health, article 12

### UN Child Rights Convention

- Right to health care, article 24
- Right to social security, article 26

### European Human Richts Convention

- "The dignity of man is inviolable . It must be respected and protected. article 1
- The right to physical and mental integrity , Article 3
- Protection from forced or compulsory labor , Article 5

### European Charta on Fundamental Rights

- Right on a fair administration – no acts with negative affects on You before You have been heard (covers at the moment only the institutions of the EU)



## Are the unemployed really so lazy and need to be "activated" ?

Health Project " dignity instead of stress ," organized and carried out in 2010 by associations of unemployed itself. Results of the online survey

### What is good about the unemployment for your health?

I learn something new, make training on advance	35,5%
I am more reading	35,1%
I fancy on	35,1%
I am glad that I can divide my day	29,4%
I have more time for friends, my family, for my neighbours	29,0%
I make stuff , which is good for me	28,9%
I am committed to social	25,4%
I eat healthier / cooking more / eat more comfortable	22,8%
I am more sporting	22,4%
I work unpaid / not officially paid	21,5%
Now I have time for many important things i couldnt do during employment	18,4%



## What are the real problems of unemployed?

Health Project " dignity instead of stress

**What is bad about unemployment for your health? For illness employment agency !**

I have less money	51,8%
I have fear to get in contact with the work agency	35,5%
I feel not to be informed sufficient	33,3%
That I soon must take a course , is a burden	29,0%
I lack the professional recognition	29,0%
If I have a course which I did not choose me , I get several complaints	28,5%
Before the date at work agency I sleep sometimes bad	28,1%
My area does not have any idea how fast you will be unemployed.	26,3%
I hang too much in front of the TV / computer	25,9%
Everyone thinks I am available around the clock ("you have time anyway")	25,4%
I eat cheaper and therefore worse	23,7%
My environment has no understanding of unemployment	22,4%
I am underutilized	19,7%
The unemployed life is boring me	12,7%



## Austria is different, really? Labor market in Austria

At first glance, pretty well , but a few downsides :

- Relatively low participation rates in employment , especially women and older workers
- Very high proportion of part time work among women
- flex(in)security : traditional low job security, low social references
- no statutory minimum wage
- For 10 years , on average, stagnant wages, significant loss of income for the bottom 20%
- Hardly labor disputes, almost no strikes



## Top down activation doesn't work

In the scientific literature, both for " active labor market policies " and " activating labor market policy " not uniformly detectable significant effects headcount !  
On the contrary, often have negative consequences in demotivation and damage to health - mental illnesses rise " – declare.

Some findings („dignity instead of stress“) show serious negative effects on motivation and health of unemployed so we must talk form an „disactivation regime“

What „scientific studies“ usually dont examine:

- The view of the under the treat of the activation and force to work regime living unemployed
- The negative effects of the activation and force to work regime
- Who makes prfofit wie the activation and force to work regime? (the activation- and (anti)poverty-industry)

Why is it done furhter?

- To hide the real sources of unemployment which are in the capitalistic and pseudodemocratic system
- To prevent unemployed to organice and fight for their
- To put pressre on the unemployed and to reinforce neoliberal/capitalistic ideology

**The activation regime is just a form of repression, please help us to remove it!**



**Don't forget the Victims of the activation and force to labor regime!**



White flowers representing the more than 10,000 who died shortly after Atos work capability assessments. A ceremony of remembrance and solidarity in Parliament Square for those whose lives have been devastated by the austerity program.



## **Institutional framework: The social partnership**

Very paternalistic tradition. Social Security is firmly in the hands of social partnership. This means:

- Undemocratic social partner organization = Red - Black proportional business, the two „state parties“ shall act transferor everything from among themselves
- No transparency , negotiations behind closed doors
- Professional functionaries not directly democratically legitimized and not accountable to the members of the employers 'and workers' representatives make everything
- Tradition of bartering ( " linkage between " ) : Improvements in a range be bought by deterioration in another area
- Social partners are both in the supervisory and decision-making bodies of the employment agency , but also profitize through subsidiary companies as a supplier of services to the employment agency.
- Unemployed have therefore seen any advocacy and are used only as troublemakers



## Restructuring of the welfare system in Austria

Work and Health Act , 2011:

- counseling center " fit2work monitors working capacity,
- after amendment automatic data transfer to social security , work agency, federal social office

"Reform of the disability pension ":

- As of 1/1/2013 : limitation on pensions to 3 months → obligation to show " work ability" and " willing to work" even if the board process is not yet complete and You later will be recognized as unable to work!
- As of 1.1.2014 : Abolition of temporary disability pension , instead forced rehabilitation or reference setting ( no relation of minimum resources possible!)
- Currently under review : Additional vague and wide sanctions in case- management of forced rehabilitation

Big plus: more unemployment assistance („Notstandshilfe“) wasnt abolished (get it after unemployed benefits and so You must not subdue to the minimum tested income regime, where you first must consume your means, sell your car,

At the same time continuously minor improvements to the unemployment assurance:

- pension insurance , if You dont get benefits at unemployment assistance in respect of the partner's income
- benefits slight increased in case of lower salaries ...





## Restructuring of the welfare system in Austria

Basically : the social system in Austria has always been very rigid, low net replacement rate , sanctions regime had taken place long .

### ***Unemployment Insurance Act 2004 amendment:***

- Expiration Job Protection
- instead of prevailing local wages with collective agreement overpayment only collective agreement pay " reasonable "
- Supervision agreement (without penalties)

### ***Unemployment Insurance Act 2007 amendment :***

Now with enforceable sanctions :

socio-economic enterprises , non-profit employment projects , thanks to union " transitional labor labor control" = unit wage

Work training , work-experience (no regular wages, only unemployment insurance benefits)

Tested minimum incom 2010:

- the approximation of the reasonability of the unemployment insurance ,
- auto reference reduction without any verification after notification of sanction offenses by the AMS , automatic data synchronization with other authorities



## **Demoliting workers rights: newer rules of the Austrian Higher Administrative Court (VwGH)**

"The unemployment is rather ... Is reasonably expected to compete with the other unemployed in an effort to obtain such a post. " (VwGH 96/08/0241 )

" ... Neither particular practical experience, or special physical or mental abilities are also necessary for cleaning work in general, ought not to be expected from a trained lawyers. The " over-qualification " is by itself not an assignment obstacle " . (VwGH 97/08/0572 )

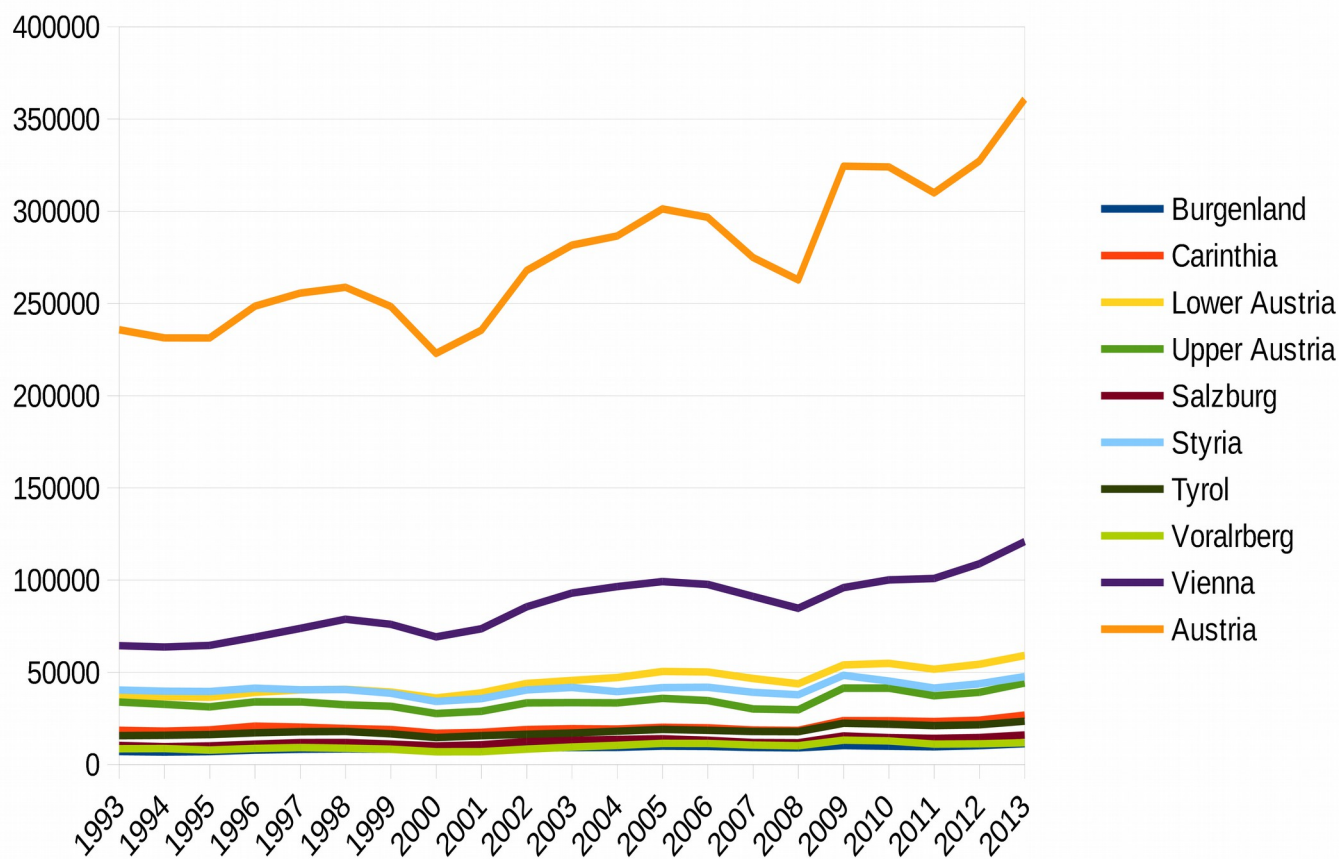
" It is notorious and needs no further justification that a long absence from the labor market is usually not conducive to workplace arrangement in order and workplace communication skills of a potential employee, which in turn can be an application disadvantage in otherwise quite equal qualifications in the eyes of employers. " (VwGH 2008/08/0273)

"It had to be obvious ... that the probability of a transit first job and this then with the prospect to achieve a job in the" labor market ", would enhance this measure to reintegrate . " (VwGH 2011/08/0013 )

After bullying by the course provider , „... but it comes to the other that the circumstances of the completion of the course attendance doesn't matter. " (VwGH 2007/08/0042 )

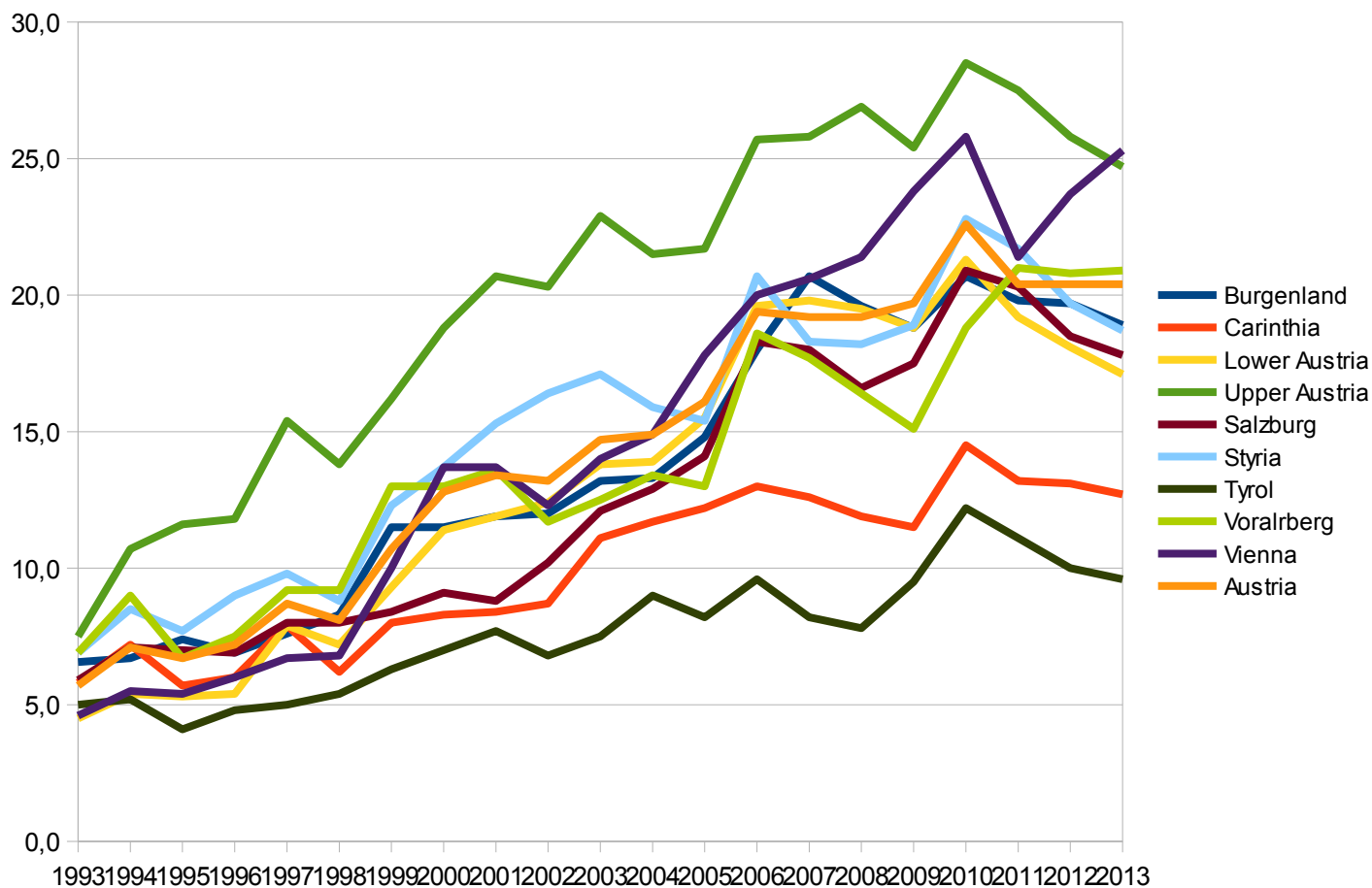


## Official Number of unemployed after national methodology, federal states, 1993 - 2013



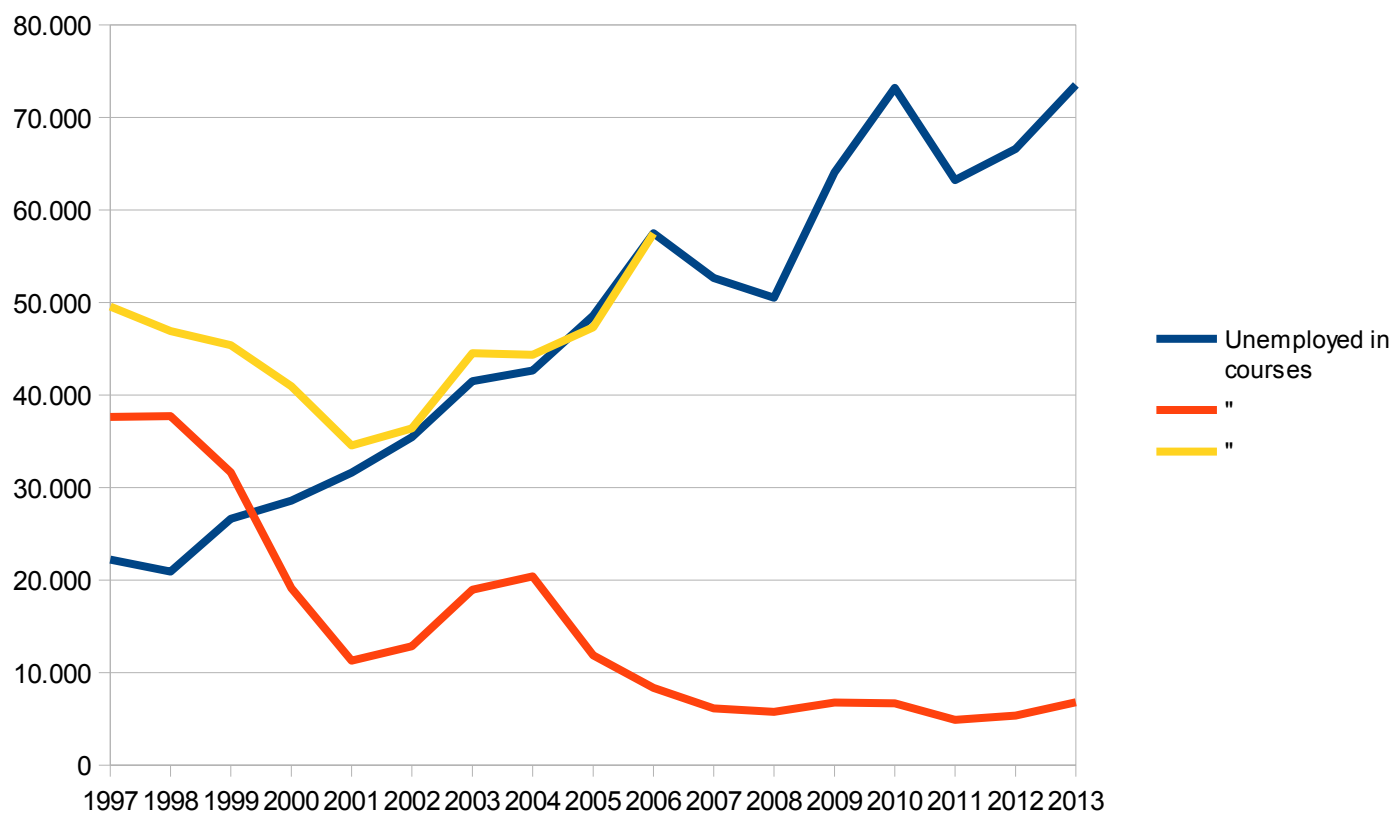


**Parked in the course: Quota of time unemployed averagly take part in corses with more than 15h per week (per federal state) 1993-2013**



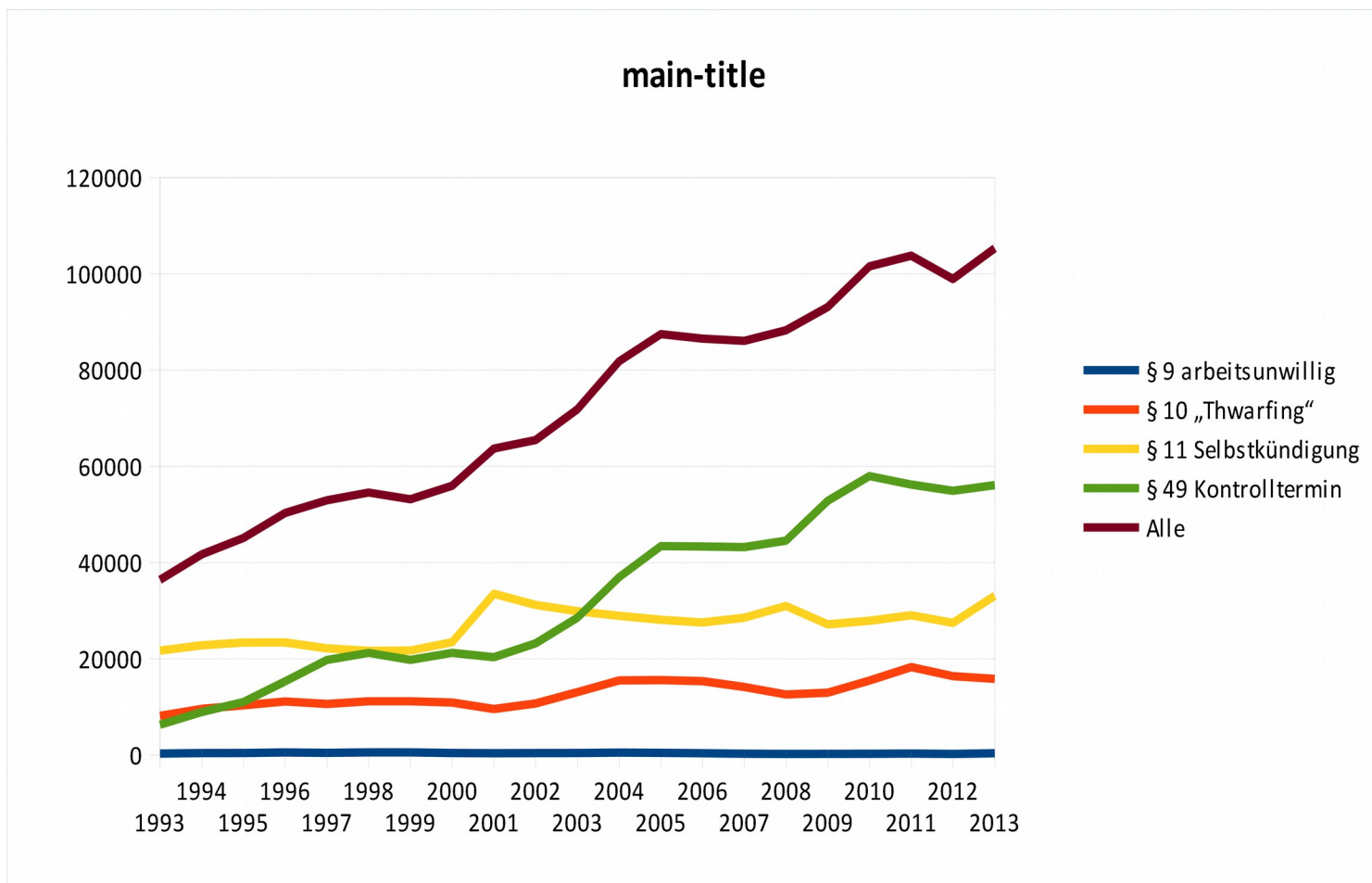


## How Course Lower the number of „long term unemployed“





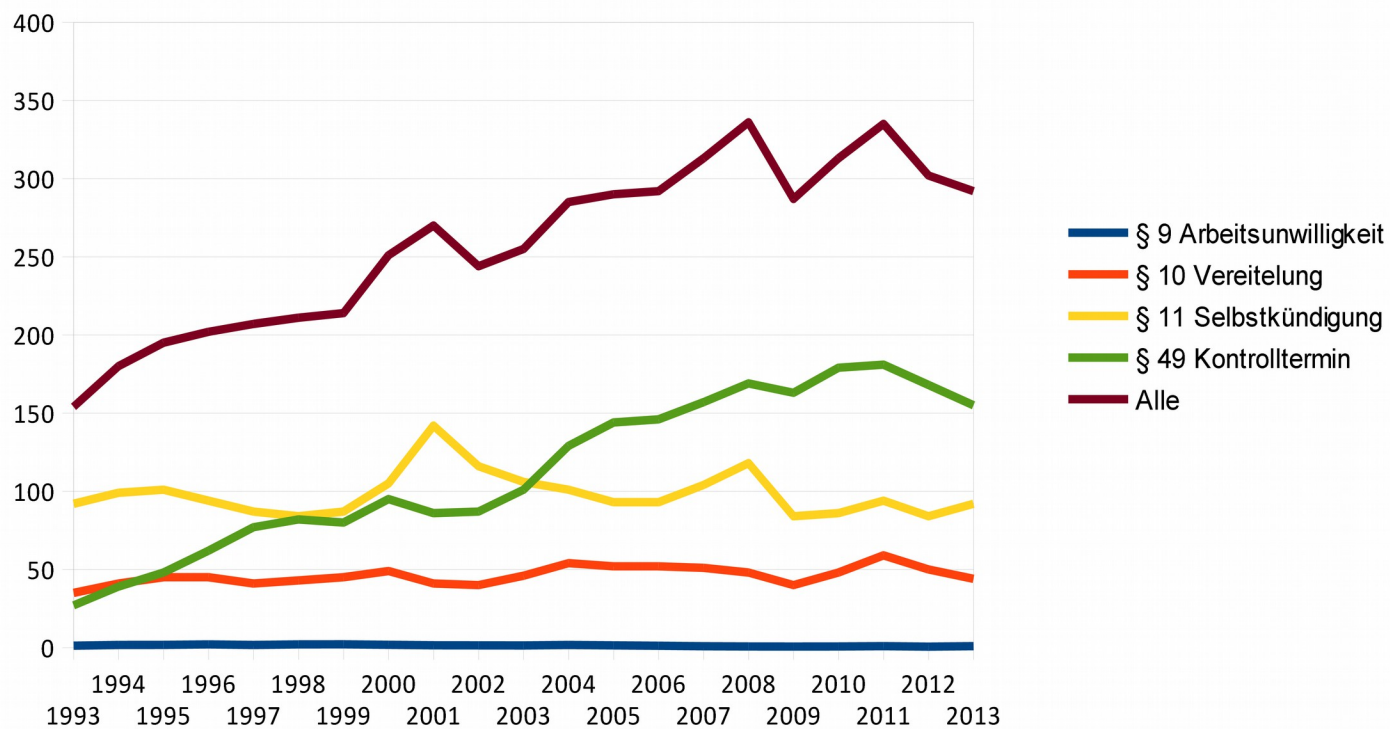
## Number of sanctions in Austria





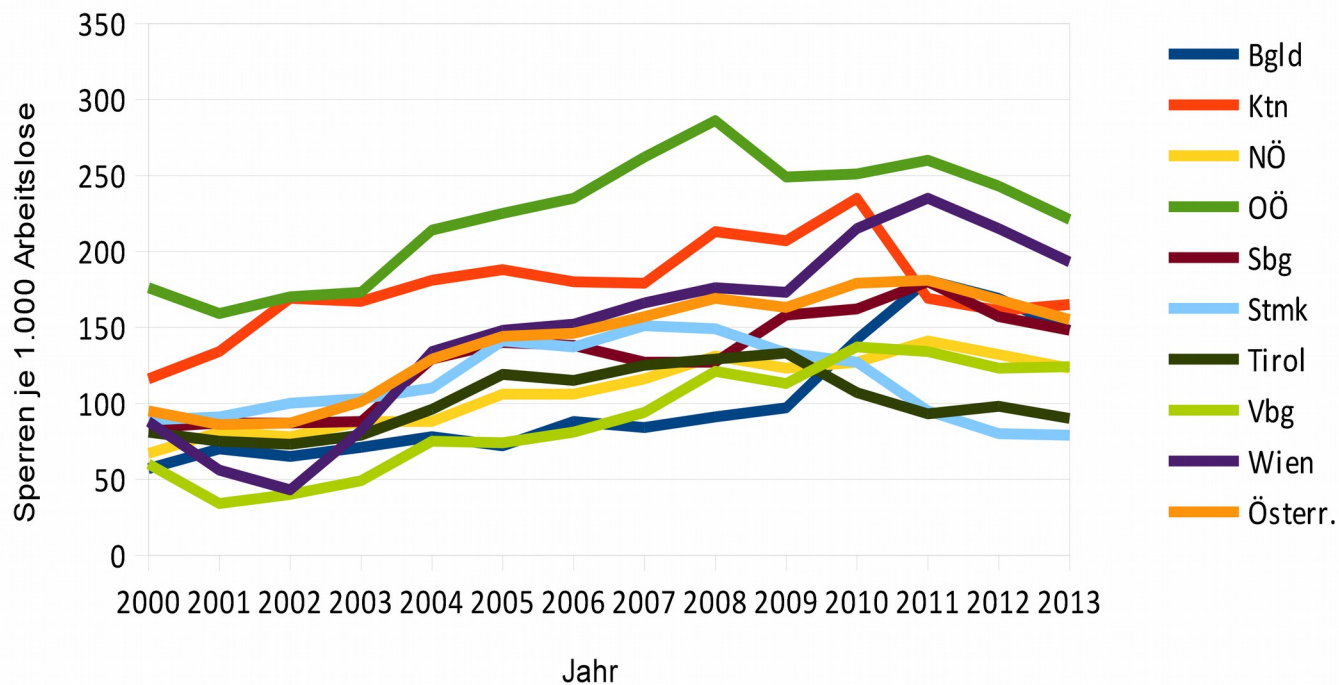
## Ratio of sanctions per 1.000 unemployed

main-title





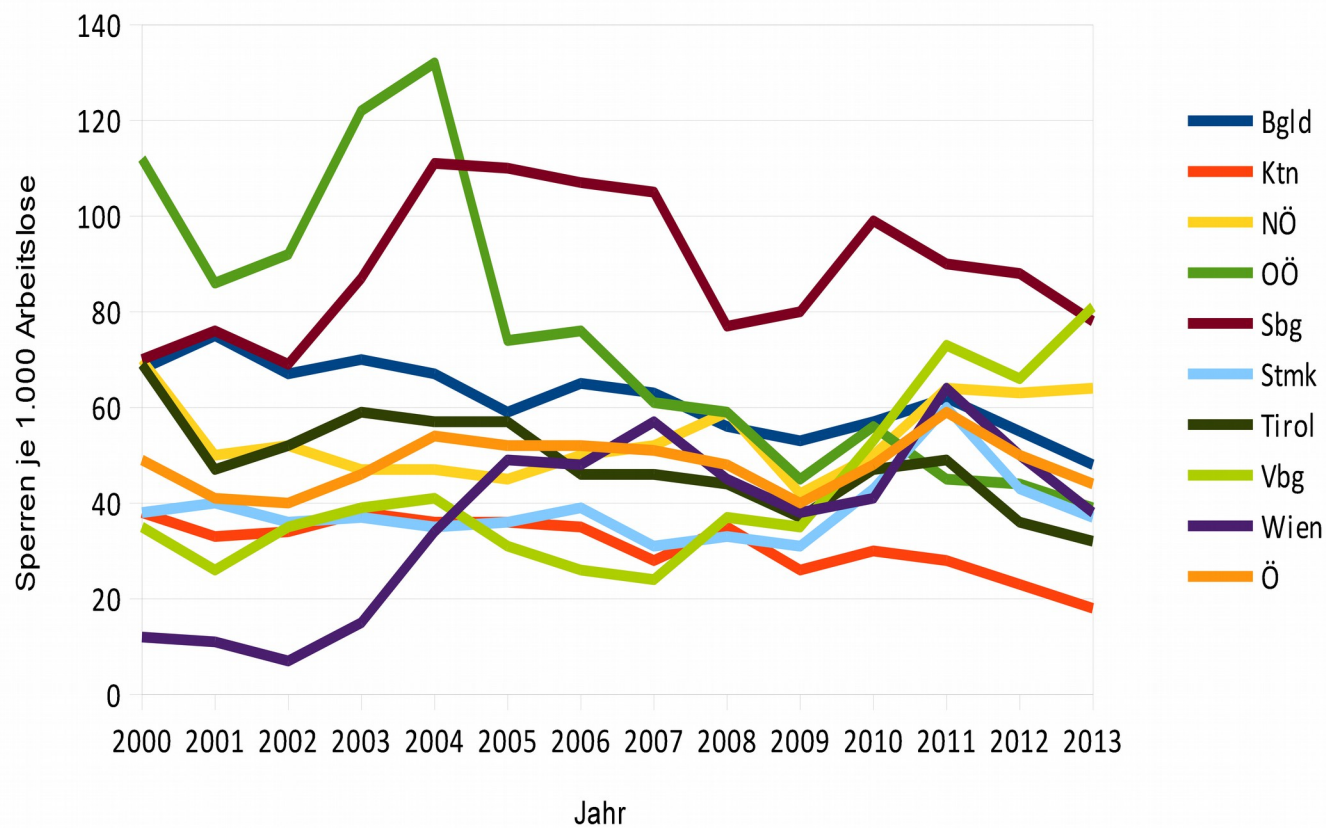
## Ratio of sanctions § 49 „controlling date“





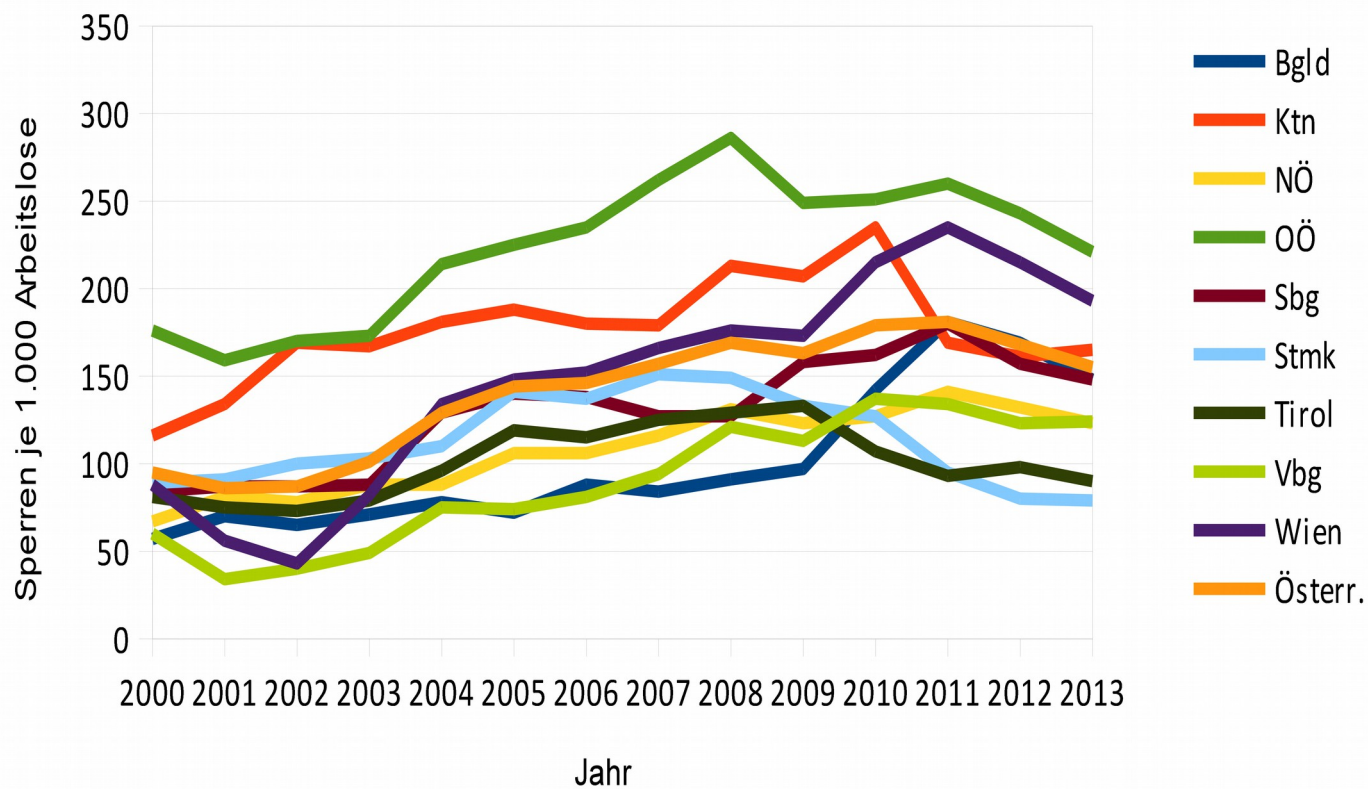


## Number of sanctions per 1.000 unemployed in the austrian federal states, § 10 „thwarfing“





## Number of sanction sper 1.000 unemployed in the Austrian federal states, § 49 controlling date





## Outlook - Alternatives

Short-term:

- Effective organization of the unemployed ( " unemployed Advocacy" ) - Information on extant rights !
- Strengthening the rights of the unemployed , defuse / abolish sanctions regime

Long-term: New Social Architecture

- Reduction in working time
- Production value added tax instead of income tax and social security contributions
- Unconditional Basic Income
- Democratization of the economy (Solidarity Economy - Commons , cooperative , ...)



***Thank You for Your attention!***  
***Solidarity with the unemployed matters everyone!***



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- <https://www.facebook.com/aktivearbeitslose> also an account as „active unemployed“
- <http://www.twitter.com/AKTIVEARBE>
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